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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
MSC 03 247 63223

Office: LOS ANGELES

Date: DEC 02 2008

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), amended by Life Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

ON BEHALF OF APPLICANT:

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "John F. Grissom".

John F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the Director, Los Angeles, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

In his decision the director denied the application because it was determined that the applicant had failed to provide a final court disposition for an arrest on November 27, 2000.

The basis for the director's decision is not entirely correct. LIFE Act applicants are not required to file an I-687, and this portion of the director's decision will be withdrawn. The applicant has been convicted of three or more misdemeanors, and is ineligible as a matter of law.

An alien who has been convicted of a felony or three or more misdemeanors in the United States is ineligible for temporary resident status. 8 C.F.R. § 245a.11(d)(1).

"Misdemeanor" means a crime committed in the United States, either (1) punishable by imprisonment for a term of one year or less, regardless of the term such alien actually served, if any, or (2) a crime treated as a misdemeanor under 8 C.F.R. § 245a.1(p). For purposes of this definition, any crime punishable by imprisonment for a maximum term of five days or less shall not be considered a misdemeanor. 8 C.F.R. § 245a.1(o).

The record reveals the following criminal history record:

1. On October 22, 1996, the applicant was arrested by the Los Angeles County Police Department for Entering Railroad Property-Hindrance of Operation, PC § 369I(B), a misdemeanor. Court records submitted by the applicant with his application confirm he was subsequently convicted of this charge on November 21, 1996. Case No. [REDACTED]
2. On November 27, 1998, the applicant was arrested by the Los Angeles County Police Department for Driving With a Suspended License, VC 14601.1(A), a misdemeanor. The applicant was subsequently convicted of this charge on January 13, 1999. Case No. [REDACTED]
3. On November 27, 1998, the applicant was also arrested by the Pamona California Police Department for violating a local ordinance. CIS and FBI records indicate the applicant was subsequently convicted of this charge, a misdemeanor. However, the applicant has not provided the actual court disposition for this arrest.
4. On March 2, 1997, the applicant was arrested by the Pamona Police Department for Drinking in Public, PCO 16-3. Court records submitted by the applicant confirm that he was subsequently convicted of this charge, a misdemeanor, on May 1, 1997. Case NO. [REDACTED]

On January 8, 2007, the director requested the applicant to submit final court dispositions for his arrests. The applicant responded by submitting court dispositions reflecting the convictions detailed in Nos. 2 and 4 above and stating that he was unable to find records of his arrest detailed in No. 3 above.

The director determined that the applicant had failed to respond to his request, and denied his application on June 28, 2007.

On appeal, counsel for the applicant asserts he is eligible for LIFE Act legalization.

In response to the request for evidence, the applicant failed to submit the requested court dispositions. For this reason alone, the application cannot be approved. If all requested initial evidence and requested additional evidence is not submitted by the required date, the application or petition shall be considered abandoned and, accordingly, shall be denied. 8 C.F.R. § 103.2(b)(13). An application or petition shall be denied where evidence submitted in response to a request for initial evidence does not establish filing eligibility at the time the application or petition was filed. 8 C.F.R. § 103.2(b)(12). Declarations by an applicant that he or she has not had a criminal record are subject to verification of facts by Citizenship and Immigration Services (CIS). The applicant must agree to fully cooperate in the verification process. Failure to assist CIS in verifying information necessary for the adjudication of the application may result in a denial of the application. 8 C.F.R. § 245a.2(k)(5).

The record clearly establishes that the applicant has been convicted of at least three misdemeanor convictions, and possibly more. Although the applicant has failed to submit the final court dispositions for all of his arrests, the evidence in the record confirms that the applicant has been convicted of at least charges 1, 2, and 4 above. For this reason the applicant is ineligible pursuant to 8 C.F.R. § 245a.11(d)(1) and the appeal will be dismissed.

The applicant has been convicted of a felony and multiple misdemeanors, and is ineligible for LIFE Act legalization as a matter of law. 8 C.F.R. 245a.11(d)(1). An alien applying for LIFE Act legalization has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 245a of the Act. The applicant has failed to meet this burden.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.